IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 2904 (MS) OF 2001

(Old No. 37757/2000)

Ram Singh,
S/o Madan Singh,
A/a 43 years,
R/o Village-Kunja, Patwar,
Kshetra Kotuli, Tehsil – Almora,
District-Almora. .....Petitioner.

Versus

1. The District Judge, Almora.
2. The Prescribed Authority/Sub Divisional Magistrate, Almora. .....Respondents.

Dated: 01.07.2006

Hon'ble Rajesh Tandon, J.

Heard Sri A.D. Tewari, Advocate for the petitioner and Standing Counsel for the respondents.

By the present writ petition, the petitioner has prayed for a writ of certiorari quashing the order dated 30.03.2000.

Briefly stated, the proceedings U/s 4 (1) of the U.P. Public Premises (Eviction of Unauthorized Occupants) Act, 1972 was initiated. The petitioner has filed objections. The prescribed authority has passed the order directing the eviction of the petitioner.

Aggrieved by the said order, the petitioner went in appeal. The appellate Authority has dismissed the same on the ground of limitation.

The short prayer of the petitioner is that the District Judge may be directed to hear the appeal on merits.

Considering the prayer of the petitioner, the appellate Court having been so technical in dismissing the appeal, the parties may be given an opportunity to plead their case on merits in view of the judgment of *N. Balakrishnan Vs. M. Krishnamurthy, 1998 SCFB and Rent Case Pages 427.*

In ***N. Balakrishnan Vs. M.Krishnamurthy, 1998 S.C.F.B. and Rent Cases Pages 427,*** It has been held that law of limitation is founded in public policy on *'the maxim of interest reipublicae up sit finis litium'* i.e. fal the general welfare, it has been held as under:-

> *" The primary function of a Court is to adjudicate the dispute between the parties and to advance substantial justice. Time limit fixed for approaching the Court in different situations is not because on the expiry of such time a bad cause would transform into a good cause".*

A writ of certiorari is issued quashing the order dated 30.03.2000 passed by the District Judge, Almora.

In view of the aforesaid judgment, the delay is condoned. The matter is sent back to the appellate Court for deciding afresh on merits.

Writ petition is allowed. No order as to costs.

(Rajesh Tandon, J.)

01.07.2006
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